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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 UNITED STATES OF AMERICA,
10
11 Plaintiff,
12 v.
13 SEAN WILLIAM DOAK,
14 Defendant.

Case No. CR08-244RSL

ORDER DENYING
DEFENDANT'S MOTION
FOR COMPASSIONATE
RELEASE

15 This matter comes before the Court on defendant's "Motion to Reduce Sentence Pursuant
16 to First Step Act and for Compassionate Release." Dkt. # 244. Having considered the motion
17 and the record contained herein, the Court finds as follows:

18 **I. PROCEDURAL MOTIONS**

19 As an initial matter, the Court finds compelling reasons justify sealing Exhibits C-H of
20 the defendant's motion (Dkt. # 243) and Exhibit 1 of the government's response (Dkt. # 250).
21 The defendant's motion to seal (Dkt. # 242) and the government's motion to seal (Dkt. # 249)
22 are accordingly GRANTED.

23 **II. BACKGROUND**

24 Defendant is a 46-year-old inmate currently incarcerated at Reeves III in Pecos, Texas.
25 Dkts. # 244 at 6, # 248 at 3. He is a citizen of Canada. On December 14, 2015, defendant pled
26 guilty to conspiracy to distribute 100 kilograms or more of marijuana and 500 grams or more of
27 a mixture and substance containing cocaine, in violation of 21 U.S.C. §§ 841(a)(1),
28 841(b)(1)(B), and 846. Dkt. # 153 at 2. On June 10, 2016, the Court sentenced defendant to 84

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1 months' imprisonment and four years of supervised release. Dkt. # 168 at 2–3. Defendant is
 2 currently scheduled for release from the custody of the Federal Bureau of Prisons (“BOP”) on
 3 December 28, 2021. Dkts. # 244 at 1, # 248 at 2. He now moves for compassionate release.

4 **III. DISCUSSION**

5 The compassionate release statute provides narrow grounds for defendants in
 6 “extraordinary and compelling” circumstances to be released from prison early. See 18 U.S.C.
 7 § 3582(c). The First Step Act of 2018 amended the procedural requirements governing
 8 compassionate release. See id. Prior to the First Step Act’s passage, only the Director of the
 9 BOP could bring motions for compassionate release. The Director rarely filed such motions.
 10 See, e.g., United States v. Brown, 411 F. Supp. 3d 446, 448 (S.D. Iowa 2019). Congress
 11 amended the statute to allow defendants to directly petition district courts for compassionate
 12 release. As amended, 18 U.S.C. § 3582(c)(1)(A) states in relevant part,

13 (c) Modification of an imposed term of imprisonment.—The court may not
 14 modify a term of imprisonment once it has been imposed except that—

15 (1) in any case—

16 (A) the court, upon motion of the Director of the Bureau of
 17 Prisons, or upon motion of the defendant after the defendant
 18 has fully exhausted all administrative rights to appeal a failure
 19 of the Bureau of Prisons to bring a motion on the defendant’s
 20 behalf or the lapse of 30 days from the receipt of such a
 21 request by the warden of the defendant’s facility, whichever
 22 is earlier, may reduce the term of imprisonment (and may
 23 impose a term of probation or supervised release with or
 24 without conditions that does not exceed the unserved portion
 25 of the original term of imprisonment), after considering the
 26 factors set forth in section 3553(a) to the extent that they are
 27 applicable, if it finds that—

24 (i) extraordinary and compelling reasons warrant such
 25 a reduction; . . .

26 (ii) . . .

27 and that such a reduction is consistent with the
 28 applicable policy statements issued by the Sentencing
 Commission[.]

Prior to considering the merits of defendant's motion, the Court must determine whether he has met the statutory exhaustion requirement for compassionate release. See 18 U.S.C. § 3582(c)(1)(A). Defendant bears the burden of establishing this requirement. See, e.g., United States v. Van Sickle, No. CR18-0250JLR, 2020 WL 3962225, at *2 (W.D. Wash. July 13, 2020) (collecting cases). The parties agree that defendant satisfied this requirement by filing a request on April 13, 2020, Dkts. # 244 at 3, # 248 at 5, which the Warden at Reeves III denied on April 20, 2020, Dkt. # 244-1 at 1–13 (Ex. A). The Court, however, disagrees as a matter of law. In United States v. Garcia, No. CR13-0071JLR, 2020 WL 3839631, at *3–4 (W.D. Wash. July 8, 2020), reconsideration denied, No. CR13-0071JLR, 2020 WL 4698814 (W.D. Wash. Aug. 13, 2020), where the government also did not contest the exhaustion requirement, the court determined that it had an independent responsibility under the statute to find whether this requirement had been met on the facts presented. Here, the record reflects that defendant attempted to appeal the Warden's decision, and the Administrative Remedy Coordinator provided a "Rejection Notice" to defendant concerning his attempted appeal. Dkt. # 244-2 at 2 (Ex. B). The Rejection Notice advised defendant that his appeal was being "rejected and returned" for not being in the "proper form" (e.g., only one "continuation page" may be submitted, all pages of the form must be "legible and worded the same," and a "complete" set of copies must be submitted). See id. The notice advised defendant that he could resubmit his appeal. There is no evidence in the record that defendant attempted to resubmit his appeal in the proper format. Thus, the Court concludes that defendant failed to fully exhaust his administrative appeal rights. See Garcia, 2020 WL 3839631, at *4. A failure to exhaust administrative remedies is fatal to a compassionate release motion. See id. Because defendant has not satisfied the exhaustion requirement, the Court lacks authority to grant the relief requested here.


IV. CONCLUSION

For all the foregoing reasons, defendant's motion for compassionate release (Dkt. # 244) is DENIED without prejudice to re-filing upon satisfaction of the exhaustion requirement set

1 forth in 18 U.S.C. § 3582(c)(1)(A). Defendant's and the government's motions to seal (Dkts.
2 # 242, # 249) are GRANTED.

3 IT IS SO ORDERED.

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5 DATED this 29th day of January, 2021.

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9 Robert S. Lasnik
10 United States District Judge
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